

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 13, 2006 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #06048

PROPOSAL: To allow the sale of alcoholic beverages for consumption off the premises.

CONCLUSION: This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption off the premises.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 160 I.T. located in Section 8, T10N, R7E, Lancaster County, Nebraska.

LOCATION: Southeast of the intersection of North 48th Street and Cornhusker Highway.

EXISTING ZONING: H-3 Highway Commercial

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Auto Sales	H-3
South:	Railroad/Industrial	I-1
East:	Commercial	H-3
West:	Vacant & Commercial	H-3

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area.

BACKGROUND: This request is to allow the sale of alcohol for consumption off the premises at the existing Cheapest Cigarettes store. The site plan shows an approximately 2,500 square foot building which is to be designated as the licensed premises.

ANALYSIS:

1. The premises is located southeast of the intersection of North 48th Street and Cornhusker Highway. The site is bounded by Cornhusker Highway to the north, North 48th Street to the west, railroad tracks to the south, and commercial to the east. This request seeks to allow the sale of alcohol for consumption off the premises from the existing cigarette store.

2. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.

The parking requirement for this use in the H-3 district is one off-street parking space per 200 square feet of floor area. Based upon an approximately 2,500 square foot building, 13 spaces are required. The paved parking area can accommodate more parking spaces than the number required, but not as many as shown on the site plan submitted. The site plan needs to be revised to show at least the minimum number of parking required with dimensions consistent with design standards for parking lots.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.

This application is for a special permit to allow the sale of alcohol for consumption off the premises. The sale of alcoholic beverages for consumption on the premises is not a part of this proposal and is not being requested.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district.

The licensed premises is located in the H-3 district. The nearest of any of the above is the R-5 district in excess of 500' away to the south of the licensed premises.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

No new lighting is proposed, however if there were it is required to be reviewed at the time of building permits and must comply with all lighting regulations including the Parking Lot Lighting Standards of the City of Lincoln Design Standards.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are part of this application.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no potential for access doors being located within 150' of a residential district. The nearest residential district is in excess of 500' away to the south of the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the subject premises is from Cornhusker Highway which is not considered a residential street.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption off the premises as shown on the attached site plan.

General:

2. Before the sale of alcohol:
 - 2.1 The permittee shall complete the following instructions and submit five copies of a revised site plan to the Planning Department office for review and approval showing the following revisions:
 - 2.1.1 Show at least 13 parking spaces properly dimensioned consistent with Design Standards.
 - 2.1.2 Designate the 'Tobacco Store' as the 'Licensed Premises'.
 - 2.1.3 Accurately show all the lots lines as they exist with dimensions.
 - 2.1.4 Add the legal description.
 - 2.1 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:

- 3.1 Before the sale of alcohol for consumption off the premises, all development and construction is to comply with the approved plans.
- 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov
Planner
August 30, 2006

OWNER: Joe Mara
4821 Cornhusker Highway
Lincoln, NE 68505
402.304.0540

APPLICANT: Windsor Enterprises
4821 Cornhusker Highway
Lincoln, NE 68505
402.464.4900

CONTACT: Jim Harman
4821 Cornhusker Highway
Lincoln, NE 68505
402.464.4900



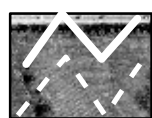
Special Permit #06048 N. 48th and Cornhusker Highway

2005 aerial

Zoning:

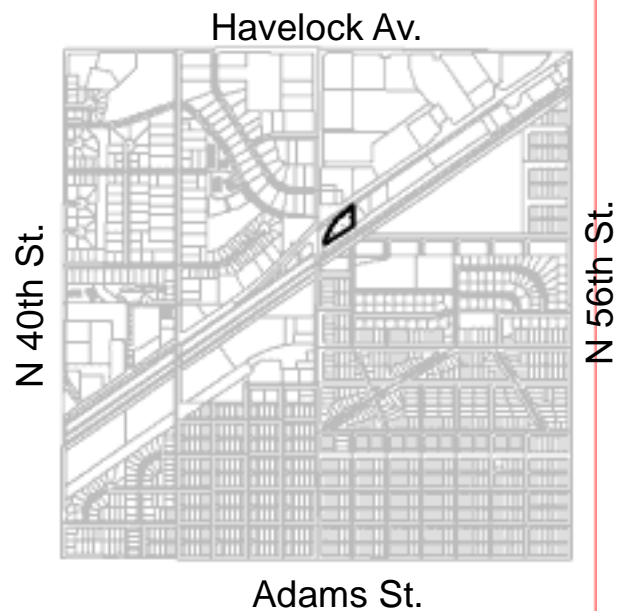
One Square Mile
Sec. 08 T10N R07E

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District



Zoning Jurisdiction Lines

City Limit Jurisdiction



J. Michael Rierden
ATTORNEY AT LAW

THE COTSWOLD
645 "M" STREET
SUITE 200
LINCOLN, NE 68508

TELEPHONE (402) 476-2413
TELECOPIER (402) 476-2948

August 10, 2006

Lincoln-Lancaster Planning Department
555 South 10th Street
Lincoln, Nebraska 68508

RE: Application for Special Permit for Sale of Alcohol Off-Premises at 48th and
Cornhusker Highway

To Whom It May Concern:

Please consider this letter a statement of purpose for the aforementioned application. Currently, the 49 foot by 50 foot building is being utilized for the sale of tobacco products. It is the intention of the owner of the business to add the sale of beer to the business operations. This sale of beer would be for off-sale only. It is my opinion that the Application meets all of the requirements of Lincoln Municipal Code Section 27.63.685 in the following manner, to-wit:

- (a) there is more than adequate parking to meet the parking requirements of the zoning district
- (b) the application is for sale of alcoholic beverages consumption off-premises
- (c) the licensed premises is not within 100 feet from a daycare facility, park, church, state mental health institution, or residential district
- (d) no additional lighting is proposed
- (e) there will be no drive through window
- (f) there will be no amplified outside sound or noise source
- (g) no access doors to the business will face any residential district
- (h) there will be no change in vehicular ingress and egress to the property
- (i) Applicant will comply with all regulations of the Nebraska Liquor Control Act and ordinances and other regulations in the City of Lincoln

If you should have any questions please feel free to contact me.

Yours very truly,


J. Michael Rierden

JMR/jdr
enclosure

RECEIVED

AUG 10 2006

LINCOLN-LANCASTER CO.
PLANNING DEPARTMENT

Cornhusker Hwy^N

RECEIVED

AUG 10 2006

LINCOLN CITY/LANCASTER CO.
PLANNING DEPARTMENT

48th

57'

49'

TOBACCO
STORE

50'

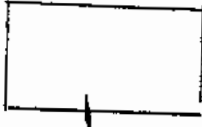
135'

126'

REAR LOT LINE



61'



37'

CIGS

RECEIVE

JUL 27 2006

LINCOLN CITY/LANCASTER CO.
PLANNING DEPARTMENT

CIGARETTE COUNTER

CASH REGISTER

CIGARS

CIGARS

POP

Office

COOLPK

COOLPK

Ice

Winey
Room

BATH
Room

Storage

COOLPK

N ↑

35'

←

LANCASTER COUNTY ASSESSOR

County Assessor/Register of Deeds

Home

General Information

News

FAQ

Searches

- PID

- Owner

- Address

Property Data

- Detail Sheet

- Datasheet

Owner Information
MARA, JOSEPH A
7100 S 29 ST
LINCOLN, NE 68516

Property Image(R79017)

XRef ID

17-08-200-018-000

Situs Address

4815 CORNHUSKER HWY
LINCOLN, NE



Back



Status of Review: Approved

08/12/2006 2:23:49 PM

Reviewed By Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION

TO: Brian Will DATE: August 12, 2006

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: North 48th ST &
EH Administration Cornhusker HWY
SP #06048

The Lincoln-Lancaster County Health Department has reviewed the special permit application and does not object to the approval of this application.

Status of Review: Complete

08/15/2006 3:26:31 PM

Reviewed By Lincoln Police Department

NCSBJW

Comments: Mr. Will,

The Lincoln Police Department does not object to the N. 48th & Cornhusker Hwy. Alcohol Sales Permit - SP06048, provided that it does meet the requirements of Lincoln Municipal Code section 27.63.685.

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

Status of Review: Active

Reviewed By Planning Department

BRIAN WILL

Comments:

Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

Status of Review: Complete

08/15/2006 3:57:14 PM

Reviewed By Public Works - Development Services

PWPCW

Comments: Memorandum

☐
☐

To: ☐ Brian Will, Planning Department

From: ☐ Charles W. Baker, Public Works and Utilities

Subject: ☐ North 48th and Cornhusker Highway Special Permit #06098

Date: ☐ August 15, 2006

cc: ☐ Randy Hoskins

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The City Engineer's Office of the Department of Public Works and Utilities has reviewed the North 48th and Cornhusker Highway Special Permit #06098 to add Alcohol Sales to the existing Cheapest Damn Cigarettes building at 4821 Cornhusker Highway. Public Works has the following comments:

The parking shown on the site plan exceeds the requirement for this site. I had a conversation with J. Michael Rierden, and we agreed to show only the required parking on the east side of the building, striped to meet design standards.

☐☐☐☐

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SP06098 tdq.wpd
